

9 FAM 41.84

VICTIMS OF TRAFFICKING IN PERSONS

(CT:VISA-1996; 06-07-2013)
(Office of Origin: CA/VO/L/R)

9 FAM 41.84 RELATED STATUTORY PROVISIONS

(CT:VISA-1996; 06-07-2013)

See INA 101(a)(15)(T) (8 U.S.C. 1101(a)(15)(T)), and INA 212(d)(13) (8 U.S.C. 1182(d)(13)).

INA 101(a)(15)(T)

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens

(T) and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien;

(i) subject to section 214(o) of this title, an alien who the Secretary of Homeland Security, or in the case of subclause (III)(aa) the Secretary of Homeland Security and the Attorney General jointly; determines—

(I) is or has been a victim of a severe form of trafficking in persons, as defined in section 7102 of title 22,

(II) is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking,

(III) (aa) has complied with any reasonable request for assistance in the Federal, State, or local investigation or prosecution of acts of trafficking or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime; or

(bb) has not attained 18 years of age, and

(IV) the alien would suffer extreme hardship involving unusual and severe harm upon removal;

(ii) if accompanying, or following to join, the alien described in clause (i)—

(I) in the case of an alien described in clause (i) who is under 21

UNCLASSIFIED (U)

U.S. Department of State Foreign Affairs Manual Volume 9
Visas

years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; *or*

(III) any parent or unmarried sibling under 18 years of age or any adult or minor children of a derivative beneficiary of the alien, as an alien described in subclause (I) or (II) who the Secretary of Homeland Security, in consultation with the law enforcement officer investigating a severe form of trafficking, determines faces a present danger of retaliation as a result of the alien's escape from the severe form of trafficking or cooperation with law enforcement.

(iii) if the Secretary of Homeland Security, in his or her discretion and with the consultation of the Attorney General, determines that a trafficking victim, due to psychological or physical trauma, is unable to cooperate with a request for assistance described in clause (i)(III)(aa), the request is unreasonable.

INA 212(d)(13)

d. Temporary admission of nonimmigrants

(13)(A) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(T) of this title, except that the ground for inadmissibility described in subsection (a)(4) of this section shall not apply with respect to such a nonimmigrant.

(B) In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 101(a)(15)(T) of this title, if the Secretary of Homeland Security considers it to be in the national interest to do so, the Secretary of Homeland Security, in the Attorney General's discretion, may waive the application of—

- (i) subsection (a)(1) of this section; and
- (ii) any other provision of subsection (a) of this section (excluding paragraphs (3), (4), (10)(C), and (10)(E)) if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I) of this title.

9 FAM 41.84 RELATED REGULATORY PROVISIONS

(CT:VISA-970; 06-12-2008)

See 22 CFR 41.84

41.84 Victims of trafficking in persons.

- (a) Eligibility. An alien may be classifiable as a parent, spouse or child under INA 101(a)(15)(T)(ii) if:
- (1) The consular officer is satisfied that the alien has the required relationship to an alien who has been granted status by the Secretary for Homeland Security under INA 101(a)(15)(T)(i);
 - (2) The consular officer is satisfied that the alien is otherwise admissible under the immigration laws of the United States; and
 - (3) The consular officer has received an DHS-approved I-914, Supplement A, evidencing that the alien is the spouse, child, or parent of an alien who has been granted status under INA 101(a)(15)(T)(i).
- (b) Visa validity. A qualifying family member may apply for a nonimmigrant visa under INA(a)(15)(T)(ii) only during the period in which the principal applicant is in status under INA 101(a)(15)(T)(i). Any visa issued pursuant to such application shall be valid only for a period of three years or until the expiration of the principal alien's status as an alien classified under INA 101(a)(15)(T)(i), whichever is shorter.

(68 FR 37964, June 26, 2003)